

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

NO POCIS
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FILE: B-221430, B-221430.2 **DATE:** March 14, 1986

MATTER OF: Cadre Technical, Inc.;
Hubbard Associates of Florida, Inc.

DIGEST:

1. In a negotiated procurement, a contracting officer need only establish a reasonable basis to support a decision to cancel a solicitation. A reasonable basis exists where the agency determines that sufficient funds are not available to allow contracting for the maximum quantities stated in the request for proposals and that additional competition is likely for reduced quantities.
2. There is no legal basis for recovery of proposal preparation costs where the General Accounting Office finds the cancellation of a solicitation proper.

Cadre Technical, Inc. and Hubbard Associates of Florida, Inc. protest the U.S. Army Tank-Automotive Command's cancellation of request for proposals (RFP) No. DAAE07-85-R-J260. This solicitation covered preparation and revision of manuals and related documents on an indefinite quantity basis. In a protest filed before the cancellation, Cadre also objected to the reopening of negotiations after best and final offers and to the revision of the solicitation instructions and evaluation factors. Hubbard requests proposal preparation costs, including travel costs for Hubbard representatives to discuss their proposal with agency officials.

We dismiss the protests and Hubbard's claim.

The record indicates that after the Army evaluated proposals, it determined that award was not possible because the solicitation and follow-up negotiations had failed to communicate adequately to offerors the true requirements of the procurement. The Army therefore issued amendment 0003, requesting additional information and allowing for a reevaluation. Before the due date for

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revised proposals, however, the contracting officer determined that it was unlikely that sufficient funds would be available to allow contracting for the maximum quantities stated in the RFP. He also determined that a reduction in the maximum quantities that might be ordered would allow further competition from firms that were not able to produce the originally-stated quantities, but might have the capacity to produce lower quantities. For these reasons, i.e., insufficient funds and the possibility of increased competition, the contracting officer canceled the RFP in order to resynopsise and resolicit the lower maximum quantities.

Cadre originally protested that the amendment was both unnecessary and ambiguous, and sought an award under the RFP as issued. It now protests the cancellation without specifying a reason.

Hubbard protests the cancellation, stating that (1) the anticipated reduction in funding and maximum quantities is not a substantive change; (2) qualified offerors under the original RFP should have first right to propose on the basis of the reduced quantities; (3) it is unlikely that reduced quantities will have any effect on the outcome of the new procurement other than to increase the cost of the small business set-aside; and (4) cancellation based on the possibility of reduced quantities is arbitrary and capricious.

Contracting agencies have broad discretion in determining when it is appropriate to cancel a solicitation. In a negotiated procurement, the contracting officer need only have a reasonable basis for cancellation after receipt of proposals, as opposed to the "cogent and compelling" reason required for cancellation of a procurement after sealed bids have been opened. See Allied Repair Service, Inc., 62 Comp. Gen. 100 (1982), 82-2 CPD ¶ 541; Business Communications Systems, Inc., B-218619, July 29, 1985, 85-2 CPD ¶ 103.

Here, the Army determined that sufficient funds would not be available to contract for the maximum quantities listed in the solicitation. Since the contract was to be for an indefinite quantity, the Army could simply have made an award under the original solicitation and placed fewer orders. The contracting officer, however, believed that such an award would prejudice other prospective bidders, since small business concerns that lacked the capacity to produce the maximum quantities might wish to compete for

the reduced quantities. Hubbard has not shown that only the small business concerns already competing would submit offers for the reduced quantities to be sought by resolicitation. In our opinion, the possibility of additional small business competition provides a reasonable basis for the cancellation. See Jackson Marine Cos., B-212880 et al., Apr. 10, 1984, 84-1 CPD ¶ 402; Immigration and Naturalization Service--Request for Advance Decision, B-182949, Mar. 19, 1975, 75-1 CPD ¶ 165.

Cadre's other bases for protest are academic in light of the cancellation. Military Base Management, Inc, B-216309, Dec. 4, 1984, 84-2 CPD ¶ 619. As for Hubbard's request for proposal preparation costs, since we find that the Army properly canceled, there is no legal basis upon which Hubbard might be allowed to recover such costs. SEI Information Technology, B-219668, Dec. 12, 1985, 85-2 CPD ¶ 649.

We dismiss the protests and the claim.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Deputy Associate
General Counsel